

Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 11: SEX ASSAULTS

§253. GROSS SEXUAL ASSAULT

1. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime; [2003, c. 711, Pt. B, §2 (AMD).]

B. The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or [2003, c. 711, Pt. B, §2 (AMD).]

C. The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime. [2003, c. 711, Pt. B, §2 (NEW).]

[2003, c. 711, Pt. B, §2 (AMD) .]

2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, as defined in section 1101, subsection 18, paragraph A, administering or employing drugs, intoxicants or other similar means. Violation of this paragraph is a Class B crime; [2007, c. 474, §1 (AMD).]

B. The actor compels or induces the other person to engage in the sexual act by any threat. Violation of this paragraph is a Class B crime; [2001, c. 383, §15 (AMD); 2001, c. 383, §156 (AFF).]

C. The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the person has the right to deny or withdraw consent. Violation of this paragraph is a Class B crime; [2001, c. 383, §15 (AMD); 2001, c. 383, §156 (AFF).]

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. Violation of this paragraph is a Class B crime; [2001, c. 383, §15 (AMD); 2001, c. 383, §156 (AFF).]

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class B crime; [2007, c. 102, §1 (AMD).]

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class C crime; [2015, c. 509, §1 (AMD).]

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, child care facility, facility operated by a family child care provider, children's residential care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the

actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class C crime; [2013, c. 179, §2 (AMD).]

H. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person. Violation of this paragraph is a Class B crime; [2001, c. 383, §16 (AMD); 2001, c. 383, §156 (AFF).]

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class C crime; [2011, c. 691, Pt. A, §13 (RPR).]

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime; [2011, c. 542, Pt. A, §11 (AMD).]

K. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class C crime; or [2011, c. 423, §3 (NEW).]

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime. [2011, c. 423, §3 (NEW).]

[2015, c. 509, §1 (AMD).]

3. It is a defense to a prosecution under subsection 2, paragraph A that the other person voluntarily consumed or allowed administration of the substance with knowledge of its nature, except that it is no defense when:

A. The other person is a patient of the actor and has a reasonable belief that the actor is administering the substance for medical or dental examination or treatment; or [2007, c. 474, §2 (NEW).]

B. The other person is in fact 14 or 15 years of age. [2007, c. 474, §2 (NEW).]

[2007, c. 474, §2 (RPR).]

4.

[2001, c. 383, §156 (AFF); 2001, c. 383, §18 (RP).]

5.

[2001, c. 383, §156 (AFF); 2001, c. 383, §19 (RP).]

6. In using a sentencing alternative involving a term of imprisonment for a person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the 2nd step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor.

A. When the sentencing class for a prior conviction under this section is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment. [1993, c. 432, §1 (NEW) .]

B. When the sentencing class for a prior conviction under this section is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment. [1993, c. 432, §1 (NEW) .]

C. When the sentencing class for a prior conviction under this section is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment. [1993, c. 432, §1 (NEW) .]

In arriving at the final sentence as the 3rd step in the sentencing process, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction.

[2001, c. 383, §20 (AMD); 2001, c. 383, §156 (AFF) .]

7. If the State pleads and proves that a violation of subsection 1 or subsection 2 was committed in a safe children zone, the court, in determining the appropriate sentence, shall treat this as an aggravating sentencing factor.

[1997, c. 768, §2 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§48,49 (AMD). 1979, c. 701, §21 (AMD). 1981, c. 252, §3 (AMD). 1983, c. 326, §§1-4 (AMD). 1985, c. 247, §2 (AMD). 1985, c. 414, §§2,3 (AMD). 1985, c. 495, §§7,8 (AMD). 1985, c. 544, (AMD). 1985, c. 737, §A41 (AMD). 1987, c. 255, §2 (AMD). 1989, c. 401, §A4 (RPR). 1991, c. 569, (AMD). 1993, c. 432, §1 (AMD). 1993, c. 687, §§1-3 (AMD). 1995, c. 429, §1 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1997, c. 768, §2 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 383, §§14-20 (AMD). 2001, c. 383, §156 (AFF). RR 2003, c. 2, §25 (COR). 2003, c. 711, §B2 (AMD). 2007, c. 102, §1 (AMD). 2007, c. 474, §§1, 2 (AMD). 2009, c. 211, Pt. B, §15 (AMD). 2011, c. 423, §§1-3 (AMD). 2011, c. 464, §5 (AMD). 2011, c. 542, Pt. A, §11 (AMD). 2011, c. 691, Pt. A, §13 (AMD). 2013, c. 179, §2 (AMD). 2015, c. 509, §1 (AMD).

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